



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 28, 1995

Mr. Robert P. Rose  
Assistant City Attorney  
City of Austin  
Department of Law  
P.O. Box 1088  
Austin, Texas 78767-1088

OR95-852

Dear Mr. Rose:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32161.

The Austin Police Department (the "department") received an open records request for the "police report" pertaining to a particular domestic disturbance.<sup>1</sup> You contend that because criminal charges are currently pending against the requestor in connection with the disturbance, the requested information is excepted from public disclosure under the "law-enforcement" exception, section 552.108 of the Government Code.

Traditionally, when applying section 552.108, our office has distinguished between cases that are under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are under active investigation, this section excepts from required public disclosure all information except that generally found on the first page of the offense report. *See generally* Open Records Decision No. 127 (1976) (citing *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559

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<sup>1</sup>The individual making the open records request also seeks a copy of the 911 call made in connection with the disturbance. You explain, however, that the tape recording has been "recycled" and therefore is no longer available.

(Tex. 1976)). Because the criminal charges against the requestor are currently pending, the department may withhold pursuant to section 552.108 the requested information in its entirety, except for that specifically held to be public in Open Records Decision No. 127 (1976).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Loretta DeHay", written in a cursive style.

Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/RWP/rho

Ref.: ID# 32161

Enclosures: Submitted documents

cc: Mr. Randy DeRego  
301 Thunderbay  
Georgetown, Texas 78626  
(w/o enclosures)